

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999  
4

*As Engrossed: H3/12/99 H3/26/99*

## A Bill

HOUSE BILL 2144

5 By: Representatives T. Thomas, *Madison*  
6  
7

### For An Act To Be Entitled

9 "AN ACT CONCERNING THE TOBACCO CONTROL BOARD AND THE  
10 ARKANSAS TOBACCO PRODUCT TAX ACT OF 1997; AND FOR  
11 OTHER PURPOSES. "  
12

### Subtitle

13 "AN ACT CONCERNING THE TOBACCO CONTROL  
14 BOARD AND THE ARKANSAS TOBACCO PRODUCT  
15 TAX ACT OF 1997. "  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code 26-57-256 is amended to read as follows:

22 "26-57-256. Powers of the board.

23 (a) The Tobacco Control Board shall:

24 (1) Promulgate regulations for the proper enforcement and  
25 implementation of the Arkansas Tobacco Products Tax Act, as amended, and the  
26 Arkansas Unfair Cigarette Sales Act, as amended, subject to the restrictions  
27 in § 26-57-212(d);

28 (2) Receive applications for and issue, refuse, suspend and  
29 revoke licenses and permits listed in § 26-57-219;

30 (3) Prescribe forms of applications for permits and licenses  
31 under this subchapter;

32 (4) Cooperate with the Revenue Division, Department of Finance  
33 and Administration in the enforcement of the tax laws affecting the sale of  
34 tobacco products in this state;

35 (5) Conduct public hearings where appropriate regarding any  
36 permit and license authorized by this subchapter or violation of this

1 subchapter, the Arkansas Tobacco Products Tax Act, ~~or~~ the Arkansas Unfair  
2 Cigarette Sales Act, § 5-27-227 or any other federal, state, or local statute,  
3 ordinance, rule or regulation concerning the sale of tobacco products to  
4 minors or the rules and regulations promulgated by the board. and take  
5 ~~appropriate actions regarding issuance, refusal, suspension or revocation of~~  
6 ~~any permit and license enumerated in § 26-57-219. In addition to any mandatory~~  
7 ~~duties of the Tobacco Control Board under § 5-27-227 to suspend, revoke, and~~  
8 ~~not renew licenses and permits,~~ After a notice and hearing held in accordance  
9 with the Arkansas Administrative Procedure Act, if the board finds a violation  
10 of this subchapter, the Arkansas Tobacco Products Tax Act, the Arkansas Unfair  
11 Cigarette Sales Act, § 5-27-227 or any other federal, state, or local statute,  
12 ordinance, rule or regulation concerning the sale of tobacco products to  
13 minors, or the rules and regulations promulgated by the board, the Tobacco  
14 ~~Control Board~~ board may suspend, revoke, or not renew any or all permits and  
15 licenses issued by the board to any person or entity and in addition, the  
16 board may levy a civil penalty, in an amount not to exceed one thousand  
17 dollars (\$1,000) for each violation against any person or entity found to be  
18 in violation. Each day of violation shall be deemed a separate violation.  
19 ~~that violates § 5-27-227 or any other federal, state, or local statute,~~  
20 ~~ordinance, rule or regulation concerning the sale of tobacco products to~~  
21 ~~minors.~~ In that regard, the board is authorized to examine or cause to be  
22 examined under oath any witness and the books and records of any licensee,  
23 person or entity. It is the intent of this subchapter that in the event of a  
24 violation of § 5-27-227 that both the licensee or permit holder and the agent  
25 or employee of the licensee or permit holder who gave, bartered or sold to a  
26 minor under eighteen (18) years of age tobacco in any form or cigarette  
27 papers, be subject to the applicable provisions of this section; and

28 (6) When requested by the written petition of at least three (3)  
29 interested parties, conduct public hearings to receive testimony on the facts  
30 relevant to the issuance of any license or permit under this subchapter.

31 (b) Unless the civil penalty assessed under this section is paid within  
32 fifteen (15) days following the date for an appeal from the order, the  
33 director of the Tobacco Control Board shall have the power to institute a  
34 civil action in the Circuit Court of Pulaski County to recover the civil  
35 penalties assessed pursuant to the provisions of this subchapter.

36 (b) (c) The Tobacco Control Board shall have no authority in criminal

1 prosecutions or the assessment or collection of any taxes or penalties related  
2 to the taxing of tobacco products."

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4 SECTION 2. Arkansas Code 26-57-255 (a) is amended to read as follows:

5 "(a) There is hereby created the Arkansas Tobacco Control Board to  
6 consist of ~~eight (8)~~ nine (9) members appointed by the Governor. The board  
7 shall be constituted as follows: Two (2) members of the board shall be tobacco  
8 products wholesalers; two (2) members of the board shall be tobacco products  
9 *retailers; and ~~four (4)~~ five (5) members of the board shall be members of the*  
10 public at large who are not public employees or officials, at least one (1) of  
11 which shall be an African American, and two (2) of whom shall be selected from  
12 a list of at least eight (8) candidates supplied to the Governor by the  
13 Arkansas Medical Society."

14  
15 SECTION 3. Arkansas Code 25-16-903 is amended to read as follows:

16 "25-16-903. Stipend - Authorization for \$50.

17 Each of the following state boards may, by a majority vote of the total  
18 membership of the board cast during its first regularly scheduled meeting of  
19 each calendar year, authorize payment to its members of a stipend not to  
20 exceed fifty dollars (\$50.00) per meeting attended, and the board members  
21 shall receive no other compensation, expense reimbursement, or in-lieu-of  
22 payments except as provided in § 25-16-902:

- 23 (1) Arkansas State Board of Public Accountancy;  
24 (2) Arkansas State Board of Acupuncture and Related Techniques;  
25 (3) Arkansas Alcohol and Drug Abuse Coordinating Council;  
26 (4) Alcoholic Beverage Control Board;  
27 (5) Athletics and Activities Board;  
28 (6) Arkansas Appraiser Licensing and Certification Board;  
29 (7) Arkansas State Board of Architects;  
30 (8) Arkansas Black History Advisory Committee;  
31 (9) Board of Directors of the Arkansas Development Finance Authority;  
32 (10) Arkansas History Commission;  
33 (11) State Board of Barber Examiners;  
34 (12) Boiler Advisory Board;  
35 (13) Burial Association Board;  
36 (14) Capitol Zoning District Commission;

- 1 (15) Arkansas Cemetery Board;
- 2 (16) Arkansas Child Abuse/Rape/Domestic Violence Commission;
- 3 (17) Arkansas State Board of Chiropractic Examiners;
- 4 (18) Community Work, Recreation, and Youth Opportunities Commission;
- 5 (19) Contractors Licensing Board;
- 6 (20) State Board of Cosmetology;
- 7 (21) State Crime Laboratory Board;
- 8 (22) Board of Developmental Disabilities Services;
- 9 (23) Arkansas Educational Television Commission;
- 10 (24) Board of Electrical Examiners of the State of Arkansas;
- 11 (25) State Board of Election Commissioners;
- 12 (26) Emergency Medical Services Advisory Council;
- 13 (27) State Employment Security Advisory Council;
- 14 (28) State Board of Registration for Professional Engineers and Land
- 15 Surveyors;
- 16 (29) State Library Board;
- 17 (30) Arkansas Fire Protection Licensing Board;
- 18 (31) Arkansas Fire and Police Pension Review Board;
- 19 (32) Arkansas State Board of Registration for Foresters;
- 20 (33) HVACR Licensing Board;
- 21 (34) Liquefied Petroleum Gas Board;
- 22 (35) Arkansas Livestock and Poultry Commission;
- 23 (36) Marriage and Family Therapy Licensure Board;
- 24 (37) Arkansas State Board of Massage Therapy;
- 25 (38) Mississippi River Parkway Commission;
- 26 (39) Arkansas Motor Vehicle Commission;
- 27 (40) Arkansas Natural Heritage Commission;
- 28 (41) Arkansas State Board of Nursing;
- 29 (42) Arkansas State Occupational Therapy Examining Committee;
- 30 ~~(43) [Repealed].~~
- 31 ~~(44)~~(43) Arkansas State Board of Physical Therapy;
- 32 ~~(45)~~(44) Arkansas Board of Dispensing Opticians;
- 33 ~~(46)~~(45) Advisory Committee on Petroleum Storage Tanks;
- 34 ~~(47)~~(46) Arkansas Board of Podiatric Medicine;
- 35 ~~(48)~~(47) Arkansas Real Estate Commission;
- 36 ~~(49)~~(48) Red River Commission;

- 1       ~~(50)~~(49) State Marketing Board for Recyclables;
- 2       ~~(51)~~(50) Board of Review;
- 3       ~~(52)~~(51) Arkansas Rural Medical Practice Student Loan and Scholarship
- 4 Board;
- 5       ~~(53)~~(52) Arkansas Geological Commission;
- 6       ~~(54)~~(53) Land Survey Advisory Board;
- 7       ~~(55)~~(54) Arkansas Soil and Water Conservation Commission;
- 8       ~~(56)~~(55) Licensing Committee for Operators of Solid Waste Management
- 9 Facilities for the Arkansas Pollution Control and Ecology Commission;
- 10       ~~(57)~~(56) Arkansas State Employee and Public School Personnel Board;
- 11       ~~(58)~~(57) ~~State Hospital~~ Department of Human Services State
- 12 Institutional System Board;
- 13       ~~(59)~~(58) Arkansas State Police Commission;
- 14       ~~(60)~~(59) State Building Services Council;
- 15       ~~(61)~~ ~~Governor's Telecommunications and Information Technology Advisory~~
- 16 ~~Board [repealed];~~
- 17       ~~(62)~~(60) Arkansas Towing and Recovery Board;
- 18       ~~(63)~~(61) Governor's Commission on Veterans' Affairs;
- 19       ~~(64)~~(62) Veterinary Medical Examining Board;
- 20       ~~(65)~~(63) ~~Arkansas Water Well Construction Commission~~ on Water Well
- 21 Construction;
- 22       ~~(66)~~(64) Arkansas Waterways Commission;
- 23       ~~(67)~~(65) Committee of Plumbing Examiners;
- 24       ~~(67)~~ ~~[As added by Acts 1997, No. 377.] Committee of Plumbing Examiners;~~
- 25       ~~(67)~~(66) ~~[As added by Acts 1997, No. 697.] Arkansas Waste Water~~
- 26 ~~Treatment Plant Operators' Licensing Committee;~~
- 27       ~~(67)~~(67) ~~[As added by Acts 1997, No. 1018.] State Board of Collection~~
- 28 ~~Agencies;~~
- 29       ~~(68)~~(68) Elevator Safety Board; ~~and~~
- 30       ~~(69)~~(69) ~~Arkansas~~ State Apprenticeship Coordinating Steering
- 31 ~~Committee;~~
- 32       (70) The Arkansas Board of Hearing Aid Dispensers; and
- 33       (71) Arkansas Tobacco Control Board."

34

35       SECTION 4. Arkansas Code 26-57-219, as amended by Act 1359 of 1997, is

36 *repealed.*

1 ~~26-57-219. Permits and licenses - Annual privilege tax. [As amended by~~  
2 ~~Acts 1997, No. 1359.]~~

3 ~~(a) The annual privilege tax or fee for each permit or license~~  
4 ~~authorized by § 26-57-215 is established as follows:~~

- 5 ~~(1) Wholesale Cigarette Permit ..... \$ 250.00~~
- 6 ~~(2) Wholesale Tobacco Permit ..... 250.00~~
- 7 ~~(3) General Tobacco Products Vending Permit (vendor) ..... 100.00~~
- 8 ~~(4) Manufacturer's Permit ..... 50.00~~
- 9 ~~(5) Tobacco Products Vending Machine License, per machine. 10.00~~
- 10 ~~(6)(i) Retail Cigarette/Tobacco Permit for retailers whose~~  
11 ~~monthly gross sales are less than 5,000. .... 20.00~~
- 12 ~~(ii) Retail Cigarette/Tobacco Permit for retailers whose~~  
13 ~~monthly gross sales are between \$5,000 and \$15,000. .... 30.00~~
- 14 ~~(iii) Retail Cigarette/Tobacco Permit for retailers whose~~  
15 ~~monthly gross sales are in excess of \$15,000 ..... 50.00~~
- 16 ~~(7) Salesman's License ..... 25.00~~
- 17 ~~(8) Dealer's License ..... 25.00~~
- 18 ~~(9) Manufacturer's Representative License ..... 25.00~~

19 ~~(b) All permits and licenses issued hereunder shall expire on June 30~~  
20 ~~of the year following the effective date of issuance.~~

21  
22 SECTION 5. Arkansas Code 26-57-219, as amended by Act 1337 of 1997, is  
23 amended to read as follows:

24 ~~"26-57-219. Permits and licenses - Annual privilege tax. [As amended by~~  
25 ~~Acts 1997, No. 1337.]~~

26 ~~(a) The annual privilege tax or fee for each permit or license~~  
27 ~~authorized by § 26-57-215 is established as follows:~~

- 28 ~~(1) Wholesale Cigarette Permit ..... \$ 500.00~~
- 29 ~~(2) Wholesale Tobacco Permit ..... 500.00~~
- 30 ~~(3) General Tobacco Products Vending Permit (vendor) ..... 100.00~~
- 31 ~~(4) Tobacco Products Vending Machine License, per machine . 10.00~~
- 32 ~~(6)(i) Retail Cigarette/Tobacco Permit for retailers whose weekly~~  
33 ~~gross sales are less than \$5,000 ..... 20.00~~
- 34 ~~(ii) Retail Cigarette/Tobacco Permit for retailers whose~~  
35 ~~weekly gross sales are between \$5,000 and \$15,000 ..... 30.00~~
- 36 ~~(iii) Retail Cigarette/Tobacco Permit for retailers whose~~

1	weekly gross sales are in excess of \$15,000 .....	50.00
2	(7) Salesman's License .....	25.00
3	(8) Dealer's License .....	25.00
4	(9) Manufacturer's Representative Fee .....	25.00

5 (b) All permits and licenses issued hereunder shall expire on June 30  
6 of the year following the effective date of issuance. Upon the failure to  
7 timely pay the annual privilege fee, a late fee of twice the amount of any  
8 license or permit fee in question will be owed in addition to the annual  
9 privilege fee. No permit or license shall be issued to the applicant until the  
10 late fee and the license or permit fee has been paid."  
11

12 SECTION 6. All provisions of this act of a general and permanent nature  
13 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
14 Revision Commission shall incorporate the same in the Code.  
15

16 SECTION 7. If any provision of this act or the application thereof to  
17 any person or circumstance is held invalid, such invalidity shall not affect  
18 other provisions or applications of the act which can be given effect without  
19 the invalid provision or application, and to this end the provisions of this  
20 act are declared to be severable.  
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22 SECTION 8. All laws and parts of laws in conflict with this act are  
23 hereby repealed.

24 /s/ T. Thomas, et al

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